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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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In re: J. EZRA MERKIN AND BDO SEIDMAN,  
SECURITIES LITIGATION

-----X  
CROSCILL INC., et al.,

Plaintiffs,

-against-

GABRIEL CAPITAL, L.P., et al.,  
Defendants.

-----X  
MORRIS FUCHS HOLDINGS, LLC,  
Plaintiff,

-against-

GABRIEL CAPITAL, L.P., et al.,  
Defendants.

-----X

08 CIVIL 10922(DAB)

**JUDGMENT**

09 CIVIL 6031 (DAB)

09 CIVIL 6483 (DAB)

Defendants Merkin and GCC having moved to dismiss Plaintiffs' Third Amended Complaint, as well as the separate Complaints of Croscill and Fuchs pursuant to Fed. R. Civ. P. 9(b) and 12(b)(6), and the matter having come before the Honorable Deborah A. Batts, United States District Judge, and the Court, on September 23, 2011, having rendered its Memorandum and Order granting Defendants' motions to dismiss, dismissing Plaintiffs' claims under Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 with prejudice, dismissing Plaintiffs' state law fraud, fraudulent inducement and negligent misrepresentation claims with prejudice, as they are barred by SLUSA, dismissing Plaintiffs' non-fraud state law claims with prejudice, as they are barred by the Martin Act, dismissing the breach of contract claims asserted by the Fuchs and Croscill Plaintiffs without prejudice, as the Court declines to exercise supplemental jurisdiction over these claims, and directing the Clerk of Court to close the Dockets in cases 08 Civ. 10922, 09 Civ. 6031, and 09 Civ.

6483, it is,

**ORDERED, ADJUDGED AND DECREED:** That for the reasons stated in the Court's Memorandum and Order dated September 23, 2011, Defendants' motions to dismiss are granted; Plaintiffs' claims under Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 are dismissed , with prejudice; Plaintiffs' state law fraud, fraudulent inducement and negligent misrepresentation claims are dismissed, with prejudice, as they are barred by SLUSA; Plaintiffs' non-fraud state law claims are also dismissed, with prejudice, as they are barred by the Martin Act; the breach of contract claims asserted by the Fuchs and Croscill Plaintiffs are dismissed, without prejudice, as the Court declines to exercise supplemental jurisdiction over these claims; the Dockets in cases 08 Civ. 10922, 09 Civ. 6031, and 09 Civ. 6483 are closed.

**Dated:** New York, New York  
September 27, 2011

**RUBY J. KRAJICK**

\_\_\_\_\_  
**Clerk of Court**

**BY:**



\_\_\_\_\_  
**Deputy Clerk**

**THIS DOCUMENT WAS ENTERED  
ON THE DOCKET ON \_\_\_\_\_**